UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 10/750,695
Filing Date: January 02, 2004
Appellant(s): ZELLNER ET AL.

Marisa J. Dubuc (Reg. No. 46,673)
<u>For Appellant</u>

EXAMINER'S ANSWER

This is in response to the Appeal Brief filed on August 17, 2010 appealing from the

Office action mailed on November 24, 2009.

(1)   Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2)   Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3)   Status of Claims

The following is a list of claims that are rejected and pending in the application: Claims 1-12 and 15-25.

(4)   Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5)   Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6)   Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the

subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are

provided under the subheading "NEW GROUNDS OF REJECTION."

(7)   Claim Appendix

The examiner has no comment on the copy of the appealed claims contained in

the Appendix to the appellant's brief.

(8)   Evidence Relied Upon

The following is a listing of the evidence (e.g., patents, publications, Official

Notice, and admitted prior art) relied upon in the rejection of claims under appeal.

US 7,254,548	Tannenbaum	08-2007
US 2002/0112171	Ginter et al.	08-2002

(9)   Grounds of Rejection

The following grounds of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2.   Claims 1-12 and 15-25 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Tannenbaum, U.S. Patent No. 7,254,548, in view of Ginter et al

(hereinafter Ginter), U.S. Patent Application Publication No. 2002/0112171.

Regarding to claim 1, Tannenbaum discloses a method for providing control

over transactions, comprising:

prompting a primary user, via a transaction control system implemented on a

computer, to input financial notification data, the financial notification data operable for

defining transaction controls associated with financial transaction initiated by a

secondary user (*column 5, lines 25-30, the main user can edit the profile for any sub-*

account; column 6, line 7-column 7, line 43, the main user can log on to the system to

edit the main user or sub-users profiles or establish new profiles; when third parties are

to be notified, then the names of the third parties and mode of notification can be set);

receiving and storing, via the transaction control system, the financial

notification data (*column 7, lines 37-40, the notification data is stored in database 16*

and profile 17);

receiving, via the transaction control system, data relating to a financial

transaction from a point of sale, the data associated with the secondary user (*column 4,*

lines 10-15, a parent could allow a child to have a credit card for the purpose of buying

clothes, the child then selects is or her purchases at a location and runs card 11 through

the card reader at the point of sale);

retrieving, via the transaction control system, financial notification data related to

the financial transaction (*column 4, lines 10-15, the system, via profile 17, database 16,*

and processor 15, then recognizes that this is a card which is a sub-account card of a

main account);

sending a notification to the point of sale, via the transaction control system,

based upon the data relating to the financial transaction (*column 4, lines 15-25,*

processor 15 enables a communication to the third person identified by profiles 17 via

the communication 18, the purchase can only be completed if the third person responds

in a positive manner by pushing a button or speaking an acceptance word a set out in

the user's profile, the processor 15 then controls the acceptance back to the point of

sale); and

upon determining, via the transaction control system, that a transaction is not

acceptable (*column 8, lines 37-45, determining whether the transaction is to be*

inhibited);

approving a request to execute the financial transaction, via the transaction

control system, without interaction from the primary user and issuing a notification to the

primary user when the request to execute the financial transaction is approved (*column*

3, lines 60-65, the communication can occur for <u>certain of the purchases by category or</u>

<u>by amount</u>; column 7, lines 55-58, "if there is not a message is to be sent to the user, or

to a third party, and if no other special action is to be taken, <u>then the system would</u>

<u>proceed normally</u>"; column 7, lines 34-35, the notification can be with the transaction or

thereafter ; and column 8, lines 30-35, "this information can be delivered before the completion of the transaction or afterward, and it could be contained on a receipt generated at the POS"); and

returning to the secondary user a notice of suspension of the account privileges (*figure 4, items 412, 416 and 417 and column 8, lines 40-45, if transaction is to be inhibited, the process blocks the transaction and sends blocking message to the user*);

Tannenbaum does not disclose the financial notification data including a spending type comprising a time limit imposed on usage of an item that is subject to the transaction controls. However, Ginter discloses the financial notification data including a spending type comprising a time limit imposed on usage of an item that is subject to the transaction controls (*paragraph [2032], a consumer wants to control his family electronic appliance used of his VISA card and prevent his children from playing too many video games; the consumer creates the second budget (time budget) is a "self-replenishing" security/control budget, that allows, for example, two hours of use per day. The second budget is added as a new required method to permissions records for video games. Since the time budget is required to access the video games, an effective control path is introduced for requiring the second budget--only permissions records modified to accept the family budget can be used by the children for video games and they are limited to two hours per day*). Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify Tannenbaum's to incorporate the feature taught by Ginter above, for the purpose of setting control limits for video games.

Regarding to claim 2, Tannenbaum further discloses wherein said financial

notification data specify conditions for performing *at least one of*: denying a request to

execute the financial transaction; confirming an identity of the secondary user before

approving said financial transaction; and suspending future financial transaction

activities of the secondary user (*approving a request to execute the financial*

transaction, column 5, lines 5-17, confirming an identity of the secondary user before

approving said financial transaction, comparing the live picture of the user with the

picture in the database).

Regarding to claim 3, Tannenbaum further discloses wherein the spending type

further includes *at least one of*: a type of transaction; a listing of items or services

associated with the transaction; a type of merchant; a time of day; a spending limit; and

a location type (*column 7, lines 7-20, a listing of items or services associated with the*

transaction).

Regarding to claim 4, Tannenbaum further discloses:

presenting a user interface screen with a menu of transaction control items and

transaction control rules, the control items organized into, and presented via the user

interface as, categories (*figures 2 and 3A, column 5, lines 50-60, the system 20 in which*

user 200 is utilizing keyboard 22 and computer 23 to access his or her account via

communication links 201-1 and 210-2 and public network 24 to web portal 25; the user

can obtain account information any time on a category by category basis, or for

establishing various account categories, balances and sub-users);

wherein receiving the financial notification data from the primary user includes

receiving *one of* a user-selected control item, category of control item, and user-defined

control item from the primary user via the user interface screen (*figures 5-7 and column*

8, line 45-column 9, line 25).

Regarding to claim 5, Tannenbaum further discloses wherein the notification to

the point of sale and the primary user are presented via *at least one of*: a point of sale

terminal; a transaction receipt; a computer screen; a telephone; postal mail; a

messaging application; and an online service (*a point of sale terminal, column 4, lines*

10-25).

Regarding to claim 6, Tannenbaum further discloses wherein the notification to

the point of sale comprises *at least one of*: an account balance; an account shut-off; a

denial of a request to execute said financial transaction; a request for an additional

authorization code; and a request to check an identification of said secondary user (*a*

request to check an identification of said secondary user, column 5, lines 5-17).

Claims 7-12 are written in means and contain similar limitations found in claims 1-

6 above, therefore, are rejected by the same rationale. Moreover, Ginter discloses

wherein the control over transactions is provided by a cable television service provider

(paragraph [0060], cable or telecommunication companies). Therefore, it would have

been obvious to one with ordinary skill in the art at the time the invention was made to

modify Tannenbaum's to incorporate the feature taught by Ginter above, for the purpose

of allowing a cable television service provider to control over the transactions.

Claims 15-20 are written in computer storage medium that contains the same

limitations found in claims 1-6 above, therefore, are rejected by the same rationale.

Regarding to claims 21-23, Tannenbaum does not disclose wherein in the

primary user is a merchant. However, Tannenbaum does disclose the third parties, such

as parents, employers, debt counselors and **others**, could be notified *(column 3, line*

60-column 4, line 10). Moreover, notifying merchant regarding to a transaction is well

known in the art. Therefore, it would have been obvious to one with ordinary skill in the

art at the time the invention was made to modify Tannenbaum's to include "merchant" in

the third parties for notification regarding to the transaction, for the purpose of notifying

the merchant in order to enhance the security when executing the transaction involving

the sub-user account.

Regarding to claim 24, Tannenbaum does not disclose wherein the item is video

gaming and the transaction controls include setting limits on the item by: time, usage,

game type and total gaming cost. However, Tannenbaum discloses the transaction

controls include setting limits on the item by: usage, type and total cost *(column 7, lines*

7-20, a listing of items or services associated with the transaction). Moreover, Ginter

discloses wherein the item is video gaming and the transaction controls include setting

limits on the item by: time *(paragraph [2032], a consumer wants to control his family*

electronic appliance used of his VISA card and prevent his children from playing too

many video games; the consumer creates the second budget (time budget) is a "self-

replenishing" security/control budget, that allows, for example, two hours of use per day.

The second budget is added as a new required method to permissions records for video

games. Since the time budget is required to access the video games, an effective

control path is introduced for requiring the second budget--only permissions records

modified to accept the family budget can be used by the children for video games and

they are limited to two hours per day). Therefore, it would have been obvious to one

with ordinary skill in the art at the time the invention was made to modify Tannenbaum's

to incorporate the feature taught by Ginter above, for the purpose of setting control

limits for video games.

Regarding to claim 25, Tannenbaum does not disclose wherein the control over

transactions is provided by an application service provider. However, Ginter discloses

wherein the control over transactions is provided by an application service provider

(*paragraph [0060], content providers, electronic hardware manufacturers, financial*

service providers, etc.). Therefore, it would have been obvious to one with ordinary skill

in the art at the time the invention was made to modify Tannenbaum's to incorporate the

feature taught by Ginter above, for the purpose of allowing an application service

provider to control over the transactions.

(10)   Response to Argument

In response to the appellant's arguments regarding to claim 1 that Tannenbaum does not

disclose "*approving a request to execute the financial transaction without interaction from the*

primary user and issuing a notification to the primary user when the request to execute the

financial transaction is approved", examiner submits that Tannenbaum discloses *the*

communication can occur for <u>certain of the purchases by category or by amount</u> (column 3, lines

60-65), and *"if there is not a message is to be sent to the user, or to a third party, and if no other special action is to be taken, then the system would proceed normally"* (column 7, lines 55-58), thus, the system of Tannenbaum approves a request to execute the financial transaction without interaction from the primary user when the purchases are not fall into the <u>certain of the purchases by category or by amount.</u> Moreover, Tannenbaum also discloses *the notification can be with the transaction or <u>thereafter</u>* (column 7, lines 34-35) and *"this information can be delivered before the completion of the transaction or <u>afterward, and it could be contained on a receipt generated at the POS</u>"* (column 8, lines 30-35), thus, the system of Tannenbaum notifies the primary user *after the completion of the transaction.* Therefore, Tannenbaum does disclose *"approving a request to execute the financial transaction without interaction from the primary user and issuing a notification to the primary user when the request to execute the financial transaction is approved."*

In response to the appellant's arguments regarding to claim 1 that Tannenbaum does not disclose *"suspension of the account privileges"*, examiner submits that Tannenbaum discloses in *figure 4, items 412, 416 and 417 and column 8, lines 40-45 that if transaction is to be inhibited, the process blocks the transaction and sends blocking message to the user.* Therefore, Tannenbaum does disclose *"suspension of the account privileges."*

In response to the appellant's arguments regarding to claim 7, examiner would like to point out that the Supreme Court in *KSR International Co. v. Teleflex Inc.* described seven rationales to support rejections under 35 U.S.C. 103:

- Combining prior art elements according to known methods to yield predictable results;

- Simple substitution of one known element for another to obtain predictable results;

- Use of known technique to improve similar devices (methods, or products) in the same way;

- Applying a known technique to a known device (method, or product) ready for improvement to yield predictable results;

- "Obvious to try" –choosing from a finite number of identified, predictable solutions, with a reasonable expectation of success;

- Known work in one field of endeavor may prompt variations of it for use in either the same field or a different one based on design incentives or other market forces if the variations would have been predictable to one of ordinary skill in the art; and

- Some teaching, suggestion, or motivation in the prior art that would have led one of ordinary skill to modify the prior art reference or to combine prior art reference teachings to arrive at the claimed invention.

Prior art is not limited just to the references being applied, but includes the understanding of one of ordinary skill in the art. The prior art reference (or references when combined) need not teach or suggest all the claim limitations; however, Office personnel must explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art. The "mere existence of differences between the prior art and an invention does not establish the invention's nonobviousness." see *Dann v. Johnson*, 425 U.S. 219, 230 (1976).

With regard to the rejections under 35 U.S.C. 103, examiner submits although Tannenbaum does not disclose "*wherein the control over transactions is provided by a cable television service provide*", but Ginter substitutes it by disclosing "*wherein the control over transactions is provided by a cable television service provider*" (*see paragraph [0060], cable or telecommunication companies*) to obtain predictable results that allowing a cable television service provider to control over the transactions.

In response to the appellant's arguments regarding to claim 15, examiner submits that

Tannenbaum does not disclose wherein the control over transactions is provided by merchant.

However, Ginter discloses wherein the control over transactions is provided by merchant

(*paragraph [0060], content providers, electronic hardware manufacturers, financial service*

providers, etc.). Therefore, it would have been obvious to one with ordinary skill in the art at the

time the invention was made to modify Tannenbaum's to incorporate the feature taught by Ginter

above, for the purpose of allowing an application service provider to control over the

transactions.

(11) Related Proceedings Appendix

No decision rendered by a court or the Board is identified by the examiner in the

Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

                                                        Respectfully submitted,

/Nga B. Nguyen/
Primary Examiner, Art Unit 3684

Conferees

Kambiz Abdi /K. A./
Supervisory Patent Examiner, Art Unit 3684

      Vincent Millin /vm/

      Appeals Conference Specialist

CANTOR COLBURN, LLP
20 Church Street, 22nd Floor
Hartford, CT 06103